



**MINUTES
FREMONT PLANNING COMMISSION
REGULAR MEETING OF SEPTEMBER 26, 2002**

CALL TO ORDER: Chairperson Manuel called the meeting to order at 7:00 p.m.

PRESENT: Chairperson Manuel, Commissioners Arneson, Harrison, Weaver (arrived 7:45 p.m.), Wieckowski

ABSENT: Cohen (death in immediate family), Thomas

STAFF PRESENT: Jeff Schwob, Senior Planner
Christine Daniel, Senior Deputy City Attorney
Cliff Nguyen, Planner 1
Alice Malotte, Recording Clerk
Julie Vidad, Support Specialist
Chavez Company, Remote Stenocaptioning
Michael Lydon, Video Technician

APPROVAL OF MINUTES: None

THE CONSENT LIST CONSISTED OF ITEM NUMBERS 2, 3, AND 5

IT WAS MOVED (HARRISON/ARNESON) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION ON ITEM NUMBERS 2, 3, AND 5

Item 2. TENTATIVE PARCEL MAP 7911 (BOCCALEONI PARCELS) - 1300 Peralta Boulevard – (PLN2002-00127) – to consider Tentative Parcel Map 7911 for 3 single-family residential lots on 0.71 acres in the Centerville Planning Area. A Mitigated Negative Declaration was prepared and circulated for this project.

CONTINUE TO OCTOBER 10, 2002.

Item 3. PACIFIC COMMONS TENTATIVE MAP 7380 and GRADING PLAN - Auto Mall Parkway - (PLN2002-00263) – to consider Tentative Tract Map 7380 and a Preliminary Grading Plan to implement the Planned District Major Amendment (approved by City Council on July 23, 2002) modifying the approved land use and circulation plans for the Planned Development known as Pacific Commons (P-2000-214) in the Industrial Planning Area. An EIR and Supplemental EIR were previously approved for the Pacific Commons project. An addendum was prepared and adopted for the Planned District Major Amendment finding the project to be consistent with the original plan and EIRs. This Tentative Tract Map and Preliminary Grading Plan implement the Planned District Major Amendment.

MODIFICATION TO EXHIBIT “P”, FINDINGS AND CONDITIONS FOR VESTING TENTATIVE TRACT MAP 7380:

CONDITION F-4: The developer shall investigate the feasibility of the use of recycled water with Alameda County Water District and if feasible, the developer shall install water lines for recycled water for future use.

HOLD PUBLIC HEARING;

AND

FIND THAT AN EIR AND SUPPLEMENTAL EIR WERE PREVIOUSLY APPROVED FOR THE PACIFIC COMMONS PROJECT; AN ADDENDUM WAS PREPARED AND ADOPTED FOR THE PLANNED DISTRICT MAJOR AMENDMENT FINDING THE PROJECT TO BE CONSISTENT WITH THE ORIGINAL PLAN AND EIRS; AND THIS VESTING TENTATIVE TRACT MAP AND PRELIMINARY GRADING PLAN IMPLEMENT THE PLANNED DISTRICT MAJOR AMENDMENT;

AND

FIND PLN2002-00263 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN AS ENUMERATED WITHIN THE STAFF REPORT;

AND

APPROVE PLN2002-00263 VESTING TENTATIVE TRACT MAP 7380 AND PRELIMINARY GRADING PLAN, AS SHOWN ON EXHIBIT "O", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "P" (VESTING TENTATIVE TRACT MAP 7380) AND EXHIBIT "Q" (PRELIMINARY GRADING PLAN).

- Item 5. STUDIO 84 – 34771 Ardenwood Boulevard – (PLN2003-00020)** – to consider a planned district minor amendment to P-89-2 to allow a karaoke and online gaming (cyber café) facility at 34771 Ardenwood Boulevard in the Northern Plain Planning Area. This project is categorically exempt under CEQA Section 15301(a) as interior alterations to an existing building.

CONTINUE TO OCTOBER 10, 2002.

The motion carried by the following vote:

AYES: 4 – Arneson, Harrison, Manuel, Wieckowski

NOES: 0

ABSTAIN: 0

ABSENT: 3 – Cohen, Thomas, Weaver

PUBLIC COMMUNICATIONS

ORAL COMMUNICATIONS

PUBLIC HEARING ITEMS

- Item 6. BICYCLE AND PEDESTRIAN PLAN - City Wide - (PLN2003-00027)** - to consider an Amendment to the Transportation Element of the General Plan to include the provisions of a new Bicycle and Pedestrian Plan. A Negative Declaration was prepared and circulated for this project.

It was decided to take this item out of order to allow a speaker to make comments, as she would not be available on October 10th when this item was scheduled to be heard.

Chairperson Manuel opened the public hearing.

Bonnie Davis stated that she was an original member of the advisory committee on trails, which mapped all public lands and developed a trail plan for biking, hiking and horses in 1975 to 1976. She hoped that this plan would include that plan and not concentrate only on City streets. She asked that all available bike and hiking paths be reinventoried and included in

the plan. She believed that all walkers, hikers and bikers should be off the City streets and onto the public right-of-ways that were not being used, such as Hetch Hetchy. She offered to help in any way she could.

Commissioner Wieckowski stated that he had a copy of a report, dated 1970, and offered to give a copy to staff. It identified 200 miles of trails in the Fremont area with some within the City limits, such as, the loop from Eggers Drive and Blacow Road to Lake Elizabeth through Centerville and Irvington. He asked the speaker if the routes that were identified at that time were still important.

Ms. Davis replied that the committee tried to keep as many trails off City streets as much as possible. She described the original planned route using City streets and public right-of-ways. She reiterated that the City must inventory what was currently available before the transportation plan was finalized.

Commissioner Wieckowski stated that he also had copies of the 1970 and 1975 foot, bike and horse trail maps.

Ms. Davis stated that she had all of the maps and was willing to share them.

Chairperson Manuel stated that she would keep the public hearing open to allow other interested parties to speak when this item was heard in the future.

IT WAS MOVED (HARRISON/WIECKOWSKI) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION ON ITEM NUMBER 6.

CONTINUE TO OCTOBER 10, 2002.

The motion carried by the following vote:

AYES: 4 – Arneson, Harrison, Manuel, Wieckowski

NOES: 0

ABSTAIN: 0

ABSENT: 3 – Cohen, Thomas, Weaver

- Item 1. BELLECERE GPA - 38569 and 38573 Mission Boulevard - (PLN2002-00111)** - to consider a General Plan Amendment to change the land use designation from Residential 5-7 dwellings per acre to 15-18 dwellings per acre for 1.04 acres located in the Central Planning Area. A Mitigated Negative Declaration was prepared and circulated. (Continued from September 12, 2002.)

MODIFICATION TO STAFF REPORT AT THE END OF THE PEER REVIEW SECTION UNDER ENVIRONMENTAL ANALYSIS:

The applicant has since provided a revised Historical Evaluation (received 9/25/02) for the property based on the City's Peer Review Comments. Staff has not had the opportunity to review this document; however, is recommending that the Planning Commission recommend the project to City Council with modified mitigation measures as appropriate and based upon a final, satisfactory Historical Evaluation.

MODIFICATION TO STAFF REPORT TO RECOMMENDED ACTIONS:

3. Recommend the City Council approve the Draft Mitigated Negative Declaration and find it reflects the independent judgement of the City of Fremont. Authorize staff to modify Mitigation Measures 15 and 16 as appropriate to reflect the recommendations of a final, satisfactory Historical Evaluation.

Dan Revay, Pinn Brothers Construction and representing applicant, stated that they wished to develop 13 town homes on a site where abandoned buildings were located. Several months were spent historically evaluating the property and the buildings. He claimed that there was no historical value to the buildings, which was reflected in the report delivered to staff this day.

Chairperson Manuel opened the public hearing.

Sherril Spellman, next-door neighbor, was against the density change. Her concerns were:

- Noise that would emanate from the 13 units next door
- Traffic from approximately 26 additional autos
- Loss of privacy

Ms. Spellman continued that her front door was approximately 78 feet from the property line and the three-story units would contribute to her loss of privacy. Her husband had performed a survey of the typical developments in the area and he found that 15 percent of the units were three stories. Consequently, building three-story units next to a single-family home was not appropriate.

Vice Chairperson Arneson asked if the speaker's property was located immediately north of the proposed project. Ms. Spellman agreed that her property was north of the project.

Chairperson Manuel asked how long the property had been abandoned. She recalled that it had been functioning as a single-family home until recently.

Ms. Spellman answered that the property had probably been abandoned for one to two years and the buildings had functioned as two single-family homes.

Martin Spellman, husband of previous speaker, stated that while looking through the report, it stated that the east side of Mission Boulevard was zoned for 15-18 units per acre. He did not believe there were that many houses on that side of Mission Boulevard. He questioned the designation of "multi-family residential planned use," as it sounded as though an apartment building could be built.

Chairperson Manuel promised to obtain an answer for him.

Senior Planner Schwob stated that the speaker might be correct that the east side of Mission Boulevard was designated multi-family. However, the properties could be developed at a lower density and the product type could vary.

Mr. Revay stated that the building heights would be 25 to 35 feet and good neighbor fences and trees for screening would be included in the plan. He understood that people who worked for a nursing operation lived in the now abandoned buildings up to about two years ago. Heritage trees would be saved, which accounted for a decrease in units and the density of 13 units would be under the allowed 15 to 18 units per acre.

Commissioner Wieckowski asked how the project could become higher density. He suggested that nine units could be built on the east side of the Maple tree, (to the north and south) and seven or eight units could be on the other side. He asked about the historical aspect. He understood that the peer review consultant, VerPlanck, was not allowed access to the inside of the bungalow and the report did not provide any details of the interior.

Mr. Revay stated that staff was against building units going north and south. There was no room for more units going east and west. He had contacted all five consultants given by the city with no reply from any of them. Consequently, he called another consultant who worked for many cities around the Bay Area. The report was revised many times after many studies.

Each time, it was decided that there was no architectural value to the buildings. The exteriors and interiors had deteriorated, as they had been abandoned. Mr. VerPlanck was allowed access, but the windows and doors were boarded up, due to a request by the City. The historical consultant revisited the site, went inside again and took pictures, which showed conclusive evidence of the deterioration.

Vice Chairperson Arneson asked how far the proposed units were from the wall or fence of neighbors to the north. What would be put along the wall or fence to separate the two properties?

Mr. Revay stated that a new good neighbor fence and trees would be located along the property line.

Vice Chairperson Arneson asked if the applicant would be willing to plant a heavy screen of trees that would provide additional privacy for the neighbors, which was one of their concerns.

Mr. Revay stated that he was willing to consult with the neighbors to satisfy their privacy concerns.

Commissioner Harrison asked if the applicant had heard from the neighbors to the south and if they would have screening similar to the neighbors to the north. He asked if the wall would mitigate the noise from the railroad tracks at the rear of the property.

Mr. Revay replied that he had not heard from the neighbors to the south, but he had heard that they were happy to see something being done to improve the property. He planned to build the same kind of fence and provide similar landscaping as on the northern property line. Two of the back yards would be more than 15 feet deep, which would be larger than the others.

Commissioner Wieckowski asked if discussions with Union Pacific had been held about the triangle of tracks. How would a new owner walk to BART from his home?

Mr. Revay replied that the triangle was stubbed out for a storm drain inlet for the adjacent property owner. Sound considerations were discussed with the railroad and in the acoustical report. The new owner would walk down Mission Boulevard to Walnut and to the BART station about one mile away. There would be no access to the railroad right-of way the properties.

Chairperson Manuel noted that staff had not had the new historical document long enough to assess it and she stated that she would have preferred to be able to assess it, herself. She asked if the new historic assessment went into who lived on the property.

Mr. Revay stated that the historical document had been reevaluated three times and it seemed that no one of "high stature" had ever lived on the property.

Chairperson Manuel asked if the newest report provided the names of people who had owned and lived on the property and why HARB did not review it.

Senior Planner Schwob answered that the property was not within the historical overlay district, was a residential project and, therefore did not require HARB review.

Chairperson Manuel closed the public hearing.

Commissioner Harrison asked if the Commission was being asked to recommend approval of a General Plan Amendment, while staff would assess the new historical assessment before it went before the City Council.

Senior Planner Schwob stated that he was correct.

Chairperson Manuel asked if this project would come back for review with the Planned District application and would the Commission have the opportunity to discuss the architecture. In her opinion, the architecture was similar to others seen, particularly, in San Ramon and Pleasanton areas. She hoped for something more interesting and distinctive, something that had moved architecturally forward, such as what had been done in Prospect, Colorado.

Vice Chairperson Arneson agreed that the Spellmans had very good concerns. However, the shape of the lot dictated that any project would be multifamily of some sort. With the townhouses located to the south of the property and approximately 25 feet from the property line, the Spellmans' front door would be approximately 108 feet from the new homes. She reminded the Spellmans that the Commission would see this project again to review the design and that the applicant had agreed to meet with them to provide additional screening. She would support the General Plan land use change, as she did not believe that there was any better solution for such a long, narrow piece of property.

Commissioner Weaver stated that she had held several conversations with Dr. Spellman. She would support the project, as long as the new historic assessment would be reviewed by staff and the site plan and architecture would come back to the Commission for approval.

Chairperson Manuel was concerned about the placement windows that could look down onto the Spellman's property. To insure additional privacy, she suggested that the screening trees should not be deciduous, as some were listed as appropriate in the report. She felt that it was premature to approve a GPA without reading the historical assessment. It was important that all historical information was gathered about all the sites that the City was losing to development, no matter the significance. She believed that the property had been owned by the Ellsworth family, who were very important in the Niles community and no comments had been made about them. She wanted to see a report that reflected what the property was, who the people were and why they were important to the culture of the Fremont area.

Vice Chairperson Arneson agreed that the new historical assessment should have been available early enough for the Commissioners and staff to read it before this meeting. She understood that at any hint of anything historical concerning the two houses, they would have to be worked into the site plan and would remain on the property.

Senior Planner Schwob replied that could be the outcome if either or both of the houses were determined to be significant. This site plan only demonstrated that the proposed density range was feasible. This was not necessarily the final project.

Commissioner Wieckowski shared Chairperson Manuel concerns. He suggested that this item be continued to allow the Commissioners to assess the new historical report. He asked if a continuance would cause an undue delay for the applicant.

Senior Planner Schwob stated that if this item were continued, it would be heard with the Bicycle and Pedestrian General Plan Amendment at the next meeting, which would then be referred to City Council as a package.

IT WAS MOVED (WIECKOWSKI/WEAVER) AND CARRIED BY THE FOLLOWING VOTE (5-0-0-2) THAT THE PLANNING COMMISSION CONTINUE TO OCTOBER 10, 2002.

The motion carried by the following vote:

AYES: 5 – Arneson, Harrison, Manuel, Weaver, Wieckowski

NOES: 0

ABSTAIN: 0

ABSENT: 2 – Cohen, Thomas

- Item 4. CATES VARIANCE – 250 J Street – (PLN2003-00006)** – to consider an appeal of the Zoning Administrator's decision to allow a variance to building setback and parking requirements that would otherwise be required for the relocation, preservation and development of a single-family residence at 250 J Street in the Niles Planning Area. This project is categorically exempted per the California Environmental Quality Act (CEQA) under Section 15303 as it relates to the construction of a single-family residence.

Chairperson Manuel recused herself because of a business relationship with the applicant and Commissioner Wieckowski recused himself because the applicant had contributed to his political campaign. Vice Chairperson Arneson chaired this item.

After some discussion, the City Attorney decided that, because the contribution was less than 250 dollars and occurred during the Fall of 2000, the quorum was retained.

Senior Planner Schwob, acting as Zoning Administrator, stated that this proposed project could be achieved and the appellants' issues had been addressed in the revised conditions of approval.

Bruce Cates, applicant, thanked staff for its help and stated that preservation of this old house had been a long and trying process. The lot was big enough to provide parking for two cars (with a covered carport for one of them), a basement and some landscaping. He stated that he was well prepared (organizationally and financially) to take all steps to complete this project in a safe and timely manner. He stated that he had responded by letter to his neighbors' concerns, which he provided to the Commission, along with letters of support. He was in total agreement with staff's responses to the concerns expressed by the neighbors.

Commissioner Wieckowski asked if the applicant would have any problems meeting the 30 day (or any other) conditions, as set forth in Exhibit B.

Mr. Cates stated that he was prepared to move forward very quickly and would need two days less than the 30 days required for the pending nuisance abatement order.

Vice Chairperson Arneson opened the public hearing.

Dirk Visser, Niles District business owner, spoke in favor of the variance. He also spoke for his friends, neighbors and customers who believed the project would increase the attractiveness of J Street and was an excellent way to upgrade the housing stock and the vitality of the Niles District. He stated that he knew, personally, of the Cates' credibility, community involvement, sensitivity to local issues and their ability to complete the project.

Michael McNevin read a letter from Greg and Sharine Newman who lived about a half a block from the site, in which they supported the project, because it would eliminate an "eyesore," the landscaping would be sensitive to the neighbors and would add visual appeal, the 1907 home deserved a home in historic Niles, and the applicant was known for his high quality craftsmanship and also lived in Niles. He also supported the project. The town was lucky to have such a beautiful old house that Mr. Cates cared enough about to revitalize into a home.

Janna Roberts, next-door neighbor, stated that the lot had been an eyesore. However, in her opinion, the lot was too small, as the house would be five feet from her back fence. Her children played in her backyard and she wondered if her children would be able to look in the home's windows at someone taking a shower. The concern that the house would sit vacant on this lot, as it had on the current lot it occupied, had been addressed.

Vice Chairperson Arneson asked if the speaker's main concern was the five-foot distance from her fence.

Ms. Roberts stated that it was.

Vice Chairperson Arneson asked if the Howards (the other appellant) wished to speak.

They were out of town.

Mr. Cates stated that he had responded to her questions in a letter. He directed the Commissioner's attention to the board on which was the design of the back of the building. A landscape architect suggested planting Italian Cypress at the back to add a screen and it would make a nice architectural backdrop. The original windows at the back were removed and the back and the windows were redesigned. Both kitchen and bathroom windows would have counters in front of them and one would have to climb up on the counters to see into the Roberts' yard. There would be no bedroom window on the back wall. He asked that the "ultra fast track" be changed to a "moderate fast track", as he believed that he could not do a good job within that length of time. It should take about six months from start to finish. He had a large economic incentive to get the house up and running. His house mover told him that he had moved approximately 40 houses a year two years ago and now he was moving ten houses, because city planning departments put "huge requirements" upon anyone wanting to restore old structures.

Vice Chairperson Arneson closed the public hearing.

Commissioner Wieckowski asked if Mr. Cates' request for a six-month period for completion of the project was needed and would the "fast-track" compromise the quality of the restoration of the home.

Senior City Attorney Daniel stated that Mr. Cates was referring to the settlement agreement at issue between the City and the property owner with respect to the code enforcement action and it was not a part of the variance to be decided by the Commission.

Commissioner Wieckowski asked if the nuisance abatement was tied to the land. Once the house was moved to J Street, would not the nuisance on Mission Boulevard be considered abated?

Senior City Attorney Daniel stated that the nuisance on Mission Boulevard would be abated and Mr. Cates had agreed to City terms related to moving the structure to J Street.

Commissioner Wieckowski supported the project. He would like to see more applicants come before the Commission applying for variances to allow similar creativity in their neighborhoods.

Commissioner Harrison also supported the project. He agreed with the way the windows on the rear of the building would be handled to allow privacy for the neighbors and the new owners. He asked, "What's the hammer if he doesn't meet the timeline."

Senior Planner Schwob replied that the Community Preservation Code Enforcement had ability to cite the applicant, along with fines, if he did not comply.

Vice Chairperson Arneson stated that she would also support the project. It would be good for Niles.

IT WAS MOVED (WEAVER/HARRISON) AND CARRIED BY THE FOLLOWING VOTE (4-0-0-2) THAT THE PLANNING COMMISSION

HOLD PUBLIC HEARING;

AND

FIND THE PROJECT PLN2003-00006 IS CATEGORICALLY EXEMPT PER CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) UNDER SECTION 15303 AS IT RELATES TO THE CONSTRUCTION OF A SINGLE-FAMILY RESIDENCE;

AND

FIND PLN2003-00006 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE AND HOUSING CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;

AND

UPHOLD THE ZONING ADMINISTRATOR DECISION TO APPROVE PLN2003-00006, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDING AND CONDITIONS OF APPROVAL, AND ADDED CONDITIONS OF APPROVAL (DENOTED BY AN ASTERISK (*)) IN EXHIBIT "B".

The motion carried by the following vote:

AYES: 4 – Arneson, Harrison, Weaver, Wieckowski

NOES: 0

ABSTAIN: 0

ABSENT: 2 – Cohen, Thomas

Miscellaneous Items

Information from Commission and Staff:

- Information from Staff:

Senior Planner Schwob stated that the Planning Commission Meeting calendar was in the Commissioners' packets. The Commissioners would have to choose to meet on either August 14th or August 28, 2003. The August 28th date could be more beneficial for anyone planning a long trip.

Commissioner Wieckowski stated that he would be in favor of meeting on August 28, 2003.

After some discussion, it was agreed that the August 2003 meeting would be on the 28th.

- Information from the Commission:

Commissioner Wieckowski stated that, regarding the Target sculpture, he went to the gallery and had the original pictures of the sculpture.

Senior City Attorney Daniel suggested that Commissioner Wieckowski's comments should be made after the sculpture had been agendaized for discussion.

Meeting adjourned at 8:30 p.m.

SUBMITTED BY:

Alice Malotte
Recording Clerk

APPROVED BY:

Jeff Schwob, Acting Secretary
Planning Commission